### Death Penalty PIC

**Counter plan text: In the United States criminal justice system, jury nullification ought to be used in the face of perceived injustice, except in death penalty cases.**

#### Solves the aff. Aff offense isn’t contingent on applying jury null to death penalty cases, so this solves enough of the aff that the net benefit outweighs.

#### Jury null for death penalty cases means juries can sentence defendants at whim for any reason at all—that leads to arbitrary punishments

**Cho 94**

Susie Cho (Northwestern University). “Capital Confusion: The Effect of Jury Instructions on the Decision to Impose Death.” Journal of Criminal Law and Criminology. Volume 85, Issue 2, Article 7. Fall 1994. http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6820&context=jclc

The Court's compromise has been to require guided discretion. Veering too far toward a uniform standard threatens to bring back mandatory death sentence laws. On the other hand, a bold move toward truly individual sentences gives too much discretionary power to the sentencer, as a jury with unbridled discretion would be able to sentence defendants at whim. Although juries could exercise their power of mercy and refuse to convict, the pendulum could easily swing in the other direction. Juries would also have the unreviewable power to sentence a defendant to death for any reason, whether it be justice or vengeance.13 2 In addition to going against the principles of Furman, granting that much power to the jury would amount to jury nullification. 133

#### Arbitrary death sentences fuel racism in the criminal justice system

**Love 12**

David Love Executive director of Philadelphia-based Witness to Innocence, a national organisation of exonerated former death row prisoners and their families in the US. “Racial Bias of the US Death Penalty” The Guardian Jan 3.2012

The application of the US death penalty is unfair, arbitrary and racially biased. Whether a defendant receives a death sentence depends not on the merits of the case, so much as on his or her skin colour – and the race of the victim – and the county in which the murder case was prosecuted. Two recent news items in the US provide some illustrative context. First, the issue of bias: the North Carolina Senate recently approved Senate Bill 9, a measure that would repeal the state's Racial Justice Act. The act, signed into law by Governor Bev Purdue in 2009, allows inmates to challenge their death sentences through statistical evidence of racial bias, including the exclusion of blacks from juries. Republican lawmakers and prosecutors opposed the law. Fortunately, the governor vetoed SB9, which would have required prosecutors to openly confess to racism. This would have made it far more difficult for prisoners to prove racial discrimination in their sentence, despite evidence such as a study of North Carolina which found that defendants whose victims were white were 3.5 times more likely to receive a death sentence. Second, the geographical anomalies: an analysis by the Houston Chronicle found that 12 of the last 13 people condemned to death in Harris County, Texas were black. After Texas itself, Harris County is the national leader in its number of executions. Over one third of Texas's 305 death row inmates – and half of the state's 121 black death row prisoners – are from Harris County. One of those African Americans, Duane Buck, was sentenced based on the testimony of an expert psychologist who maintained that blacks are prone to violence. In 2008, Harris County District Attorney Chuck Rosenthal resigned after sending an email message titled "fatal overdose", featuring a photo of a black man lying on the ground surrounded by watermelons and a bucket of chicken. But this is nothing new: race and capital punishment in the US have always been inseparable. According to the Washington-based Death Penalty Information Center (DPIC), 56% of death row inmates are black or Hispanic. However, although racial minorities comprise half of all murder victims nationwide, a far greater proportion (77%) of the victims in capital convictions were white. The racial identity of the murder victim is thus a leading factor in determining who receives a death sentence in America. Amnesty International also reports that 20% of blacks nationwide were convicted by all-white juries. Given the over-representation of black and Hispanic prisoners on death row, it is hardly surprising that of the 139 capital convicts found innocent since 1973, 61% have been of color.